

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Herbert Louis Carter, Jr.,

CIVIL NO. 08cv04930 DSD/JJK

Petitioner,

v.

ORDER

James A. Moore and
Daniel Rogan,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Jeffrey J. Keyes dated September 22, 2008. No objections have been filed to that Report and Recommendation in the time period permitted.

Based upon the Report and Recommendation of the Magistrate Judge, upon all of the files, records and proceedings herein, the Court now makes and enters the following Order.

IT IS HEREBY ORDERED that:

1. Plaintiff's application for leave to proceed in forma pauperis, (Docket No. 2), is **DENIED**;
2. This action is summarily **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1);
3. Plaintiff is required to pay the unpaid balance of the Court filing fee, namely the full \$350, in accordance with 28 U.S.C. § 1915(b)(2); and

4. The dismissal of this action is counted as a “strike” against Plaintiff for purposes of 28 U.S.C. § 1915(g).

Dated: October 10, 2008

s/David S. Doty
DAVID S. DOTY
United States District Judge